

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of)
)
Qwest Communications International,)
Inc. Consolidated Application for)
Authority to Provide In-Region, InterLATA)
Services in Colorado, Idaho, Iowa, Montana,)
Nebraska, North Dakota, Utah,)
Washington, and Wyoming)

REPLY COMMENTS
OF THE
MONTANA CONSUMER COUNSEL (“MCC”)

The Montana Consumer Counsel (MCC) submits the following Reply Comments regarding Qwest Communications International, Inc.’s (Qwest) September 30, 2002, refiled application to provide in-region InterLATA services in Montana pursuant to Section 271 of the Telecommunications Act of 1996.

MCC is a constitutionally created state agency charged with representing consumer interests in proceedings that affect rates and services to utility consumers. *Art. XIII, sec. 2, Mont. Const., §§69-2-201, et seq., MCA.* MCC is an active participant in state regulatory proceedings involving Qwest’s services and rates, and has an interest in the telecommunications market environment in Montana.

MCC adopts, and incorporates herein by reference, its “Reply Comments of the Montana Consumer Counsel” submitted August 26, 2002 in WC Docket No. 02-189. Those Comments indicated MCC’s broad agreement with the Montana Public Service Commission’s (MPSC) August 1, 2002, Evaluation.¹ The sole exception to MCC’s support of the MPSC Evaluation related to a condition the MPSC requested that the FCC impose to address an alleged access charge “price squeeze.”² The MPSC sought to have the FCC require Qwest to file a revenue requirement and rate design case by October 1, 2002. MCC opposed the condition because it requested an FCC mandate to address a state rate issue within the jurisdiction of the MPSC, and because there was no factual basis to support the price squeeze allegation. These points are addressed at greater length in MCC’s August Reply.³

Because the MPSC’s requested rate case filing condition would have imposed a deadline that has now passed with no filing from Qwest, the October 15, 2002, Comments of the Montana Public Service Commission now recommend that the FCC deny Qwest’s application for entry into the Montana InterLATA market. MCC respectfully disagrees, and believes that the remainder of the MPSC’s Evaluation and Comments should form the basis for FCC action. While no price squeeze has been demonstrated, MCC does not object to, and may support, a state rate review. However,

¹ In Comments of the Montana Public Service Commission submitted October 15, 2002, in this proceeding, the MPSC adopts its Evaluation submitted in WC Docket No. 02-189.

² This issue is unrelated to the alleged price squeeze between local exchange rates and UNE rates (see AT&T Comments, p. 78 and WorldCom Comments, p. 26.)

³ The only additional point made in the MPSC’s Comments is a reference to the U. S. Department of Justice’s position on the requested condition. The point made by the DOJ in its footnote reference to, and support of, the rate case condition is not entirely clear. Unfortunately, DOJ did not explain the basis for its support, so no response is possible. For the same reason, the FCC cannot give weight to this statement, and it cannot provide an independent support for the MPSC’s recommendation.

the FCC should not mandate such state action, which is within the jurisdiction of the state commission, and especially not on the basis of unproven allegations.

The Montana Commission and its staff, in conjunction with other state commissions, have engaged in an exhaustive and productive effort to facilitate Qwest's InterLATA market entry filing. With the exception of the state rate case filing condition, the FCC should approve Qwest's Application as recommended in the August Evaluation of the MPSC.

Respectfully submitted this 25th day of October, 2002.

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